

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN SENATE JUNE 20, 2006

AMENDED IN SENATE JUNE 5, 2006

AMENDED IN ASSEMBLY JANUARY 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## ASSEMBLY BILL

**No. 618**

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### **Introduced by Assembly Member Cogdill**

*(Coauthors: Assembly Members Benoit, Bogh, Cox, Daucher, DeVore, Evans, Garcia, Huff, Maze, Niello, Strickland, and Villines)*

*(Coauthors: Senators Aanestad, Harman, and Morrow)*

February 17, 2005

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An act to amend Section 7480 of the Government Code, relating to crime.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 618, as amended, Cogdill. Crime.

Existing law provides that when any police or sheriff's department, or district attorney in this state certifies to a bank, credit union, or savings association in this state, or doing business in this state, that a crime report has been filed that involves the alleged fraudulent use of drafts, checks, or other orders, and so requests, the institution must furnish specified information, with the consent of the accountholder in the case of an institution doing business in the state, including account statements and a copy of the signature card.

This bill would provide that a law enforcement agency may also request, and a bank, credit union, or savings association must then

provide, surveillance photographs and video recordings of a person accessing the crime victim's financial account via an ATM or from within the financial institution, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7480 of the Government Code is  
2 amended to read:

3 7480. Nothing in this chapter ~~prohibits~~ *shall prohibit* any of  
4 the following:

5 (a) The dissemination of any financial information that is not  
6 identified with, or identifiable as being derived from, the  
7 financial records of a particular customer.

8 (b) When any police or sheriff's department or district  
9 attorney in this state certifies to a bank, credit union, or savings  
10 association in writing that a crime report has been filed that  
11 involves the alleged fraudulent use of drafts, checks, access  
12 cards, or other orders drawn upon any bank, credit union, or  
13 savings association in this state, the police or sheriff's  
14 department or district attorney may request a bank, credit union,  
15 or savings association to furnish, and a bank, credit union, or  
16 savings association shall furnish, a statement setting forth the  
17 following information with respect to a customer account  
18 specified by the police or sheriff's department or district attorney  
19 for a period 30 days prior to, and up to 30 days following, the  
20 date of occurrence of the alleged illegal act involving the  
21 account:

22 (1) The number of items dishonored.

23 (2) The number of items paid that created overdrafts.

24 (3) The dollar volume of the dishonored items and items paid  
25 which created overdrafts and a statement explaining any credit  
26 arrangement between the bank, credit union, or savings  
27 association and customer to pay overdrafts.

28 (4) The dates and amounts of deposits and debits and the  
29 account balance on these dates.

30 (5) A copy of the signature card, including the signature and  
31 any addresses appearing on a customer's signature card.

1 (6) The date the account opened and, if applicable, the date the  
2 account closed.

3 (7) Surveillance photographs and video recordings of persons  
4 accessing the crime victim's financial account via an automated  
5 teller machine (ATM) or from within the financial institution for  
6 dates on which illegal acts involving the account were alleged to  
7 have occurred. Nothing in this paragraph does any of the  
8 following:

9 (A) Requires a financial institution to produce a photograph or  
10 video recording if it does not possess the photograph or video  
11 recording.

12 (B) Affects any existing civil immunities as provided in  
13 Section 47 of the Civil Code or any other provision of law.

14 (8) A bank, credit union, or savings association that provides  
15 the requesting party with copies of one or more complete account  
16 statements prepared in the regular course of business shall be  
17 deemed to be in compliance with paragraphs (1), (2), (3), and (4).

18 (c) When any police or sheriff's department or district attorney  
19 in this state certifies to a bank, credit union, or savings  
20 association in writing that a crime report has been filed that  
21 involves the alleged fraudulent use of drafts, checks, access  
22 cards, or other orders drawn upon any bank, credit union, or  
23 savings association doing business in this state, the police or  
24 sheriff's department or district attorney may request, with the  
25 consent of the accountholder, the bank, credit union, or savings  
26 association to furnish, and the bank, credit union, or savings  
27 association shall furnish, a statement setting forth the following  
28 information with respect to a customer account specified by the  
29 police or sheriff's department or district attorney for a period 30  
30 days prior to, and up to 30 days following, the date of occurrence  
31 of the alleged illegal act involving the account:

32 (1) The number of items dishonored.

33 (2) The number of items paid that created overdrafts.

34 (3) The dollar volume of the dishonored items and items paid  
35 which created overdrafts and a statement explaining any credit  
36 arrangement between the bank, credit union, or savings  
37 association and customer to pay overdrafts.

38 (4) The dates and amounts of deposits and debits and the  
39 account balance on these dates.

1 (5) A copy of the signature card, including the signature and  
2 any addresses appearing on a customer's signature card.

3 (6) The date the account opened and, if applicable, the date the  
4 account closed.

5 (7) Surveillance photographs and video recordings of persons  
6 accessing the crime victim's financial account via an automated  
7 teller machine (ATM) or from within the financial institution for  
8 dates on which illegal acts involving this account were alleged to  
9 have occurred. Nothing in this paragraph does any of the  
10 following:

11 (A) Requires a financial institution to produce a photograph or  
12 video recording if it does not possess the photograph or video  
13 recording.

14 (B) Affects any existing civil immunities as provided in  
15 Section 47 of the Civil Code or any other provision of law.

16 (8) A bank, credit union, or savings association doing business  
17 in this state that provides the requesting party with copies of one  
18 or more complete account statements prepared in the regular  
19 course of business shall be deemed to be in compliance with  
20 paragraphs (1), (2), (3), and (4).

21 (d) For purposes of subdivision (c), consent of the  
22 accountholder shall be satisfied if an accountholder provides to  
23 the financial institution and the person or entity seeking  
24 disclosure, a signed and dated statement containing all of the  
25 following:

26 (1) Authorization of the disclosure for the period specified in  
27 subdivision (c).

28 (2) The name of the agency or department to which disclosure  
29 is authorized and, if applicable, the statutory purpose for which  
30 the information is to be obtained.

31 (3) A description of the financial records that are authorized to  
32 be disclosed.

33 (e) (1) The Attorney General, a supervisory agency, the  
34 Franchise Tax Board, the State Board of Equalization, the  
35 Employment Development Department, the Controller or an  
36 inheritance tax referee when administering the Prohibition of Gift  
37 and Death Taxes (Part 8 (commencing with Section 13301) of  
38 Division 2 of the Revenue and Taxation Code), a police or  
39 sheriff's department or district attorney, a county welfare  
40 department when investigating welfare fraud, a county

1 auditor-controller or director of finance when investigating fraud  
2 against the county, or the Department of Corporations when  
3 conducting investigations in connection with the enforcement of  
4 laws administered by the Commissioner of Corporations, from  
5 requesting of an office or branch of a financial institution, and  
6 the office or branch from responding to a request, as to whether a  
7 person has an account or accounts at that office or branch and, if  
8 so, any identifying numbers of the account or accounts.

9 (2) No additional information beyond that specified in this  
10 section shall be released to a county welfare department without  
11 either the accountholder's written consent or a judicial writ,  
12 search warrant, subpoena, or other judicial order.

13 (3) A county auditor-controller or director of finance who  
14 unlawfully discloses information he or she is authorized to  
15 request under this subdivision is guilty of the unlawful disclosure  
16 of confidential data, a misdemeanor, which shall be punishable as  
17 set forth in Section 7485.

18 (f) The examination by, or disclosure to, any supervisory  
19 agency of financial records that relate solely to the exercise of its  
20 supervisory function. The scope of an agency's supervisory  
21 function shall be determined by reference to statutes that grant  
22 authority to examine, audit, or require reports of financial records  
23 or financial institutions as follows:

24 (1) With respect to the Commissioner of Financial Institutions  
25 by reference to Division 1 (commencing with Section 99),  
26 Division 1.5 (commencing with Section 4800), Division 2  
27 (commencing with Section 5000), Division 5 (commencing with  
28 Section 14000), Division 7 (commencing with Section 18000),  
29 Division 15 (commencing with Section 31000), and Division 16  
30 (commencing with Section 33000), of the Financial Code.

31 (2) With respect to the Controller by reference to Title 10  
32 (commencing with Section 1300) of Part 3 of the Code of Civil  
33 Procedure.

34 (3) With respect to the Administrator of Local Agency  
35 Security by reference to Article 2 (commencing with Section  
36 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the  
37 Government Code.

38 (g) The disclosure to the Franchise Tax Board of (1) the  
39 amount of any security interest that a financial institution has in a  
40 specified asset of a customer or (2) financial records in

1 connection with the filing or audit of a tax return or tax  
2 information return that are required to be filed by the financial  
3 institution pursuant to Part 10 (commencing with Section 17001),  
4 Part 11 (commencing with Section 23001), or Part 18  
5 (commencing with Section 38001), of the Revenue and Taxation  
6 Code.

7 (h) The disclosure to the State Board of Equalization of any of  
8 the following:

9 (1) The information required by Sections 6702, 6703, 8954,  
10 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155,  
11 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404,  
12 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the  
13 Revenue and Taxation Code.

14 (2) The financial records in connection with the filing or audit  
15 of a tax return required to be filed by the financial institution  
16 pursuant to Part 1 (commencing with Section 6001), Part 2  
17 (commencing with Section 7301), Part 3 (commencing with  
18 Section 8601), Part 13 (commencing with Section 30001), Part  
19 14 (commencing with Section 32001), and Part 17 (commencing  
20 with Section 37001), of Division 2 of the Revenue and Taxation  
21 Code.

22 (3) The amount of any security interest a financial institution  
23 has in a specified asset of a customer, if the inquiry is directed to  
24 the branch or office where the interest is held.

25 (i) The disclosure to the Controller of the information required  
26 by Section 7853 of the Revenue and Taxation Code.

27 (j) The disclosure to the Employment Development  
28 Department of the amount of any security interest a financial  
29 institution has in a specified asset of a customer, if the inquiry is  
30 directed to the branch or office where the interest is held.

31 (k) The disclosure by a construction lender, as defined in  
32 Section 3087 of the Civil Code, to the Registrar of Contractors,  
33 of information concerning the making of progress payments to a  
34 prime contractor requested by the registrar in connection with an  
35 investigation under Section 7108.5 of the Business and  
36 Professions Code.

37 (l) Upon receipt of a written request from a local child support  
38 agency referring to a support order pursuant to Section 17400 of  
39 the Family Code, a financial institution shall disclose the  
40 following information concerning the account or the person

1 named in the request, whom the local child support agency shall  
2 identify, whenever possible, by social security number:

3 (1) If the request states the identifying number of an account at  
4 a financial institution, the name of each owner of the account.

5 (2) Each account maintained by the person at the branch to  
6 which the request is delivered, and, if the branch is able to make  
7 a computerized search, each account maintained by the person at  
8 any other branch of the financial institution located in this state.

9 (3) For each account disclosed pursuant to paragraphs (1) and  
10 (2), the account number, current balance, street address of the  
11 branch where the account is maintained, and, to the extent  
12 available through the branch's computerized search, the name  
13 and address of any other person listed as an owner.

14 (4) Whenever the request prohibits the disclosure, a financial  
15 institution shall not disclose either the request or its response, to  
16 an owner of the account or to any other person, except the  
17 officers and employees of the financial institution who are  
18 involved in responding to the request and to attorneys, employees  
19 of the local child support agencies, auditors, and regulatory  
20 authorities who have a need to know in order to perform their  
21 duties, and except as disclosure may be required by legal process.

22 (5) No financial institution, or any officer, employee, or agent  
23 thereof, shall be liable to any person for (A) disclosing  
24 information in response to a request pursuant to this subdivision,  
25 (B) failing to notify the owner of an account, or complying with  
26 a request under this paragraph not to disclose to the owner, the  
27 request or disclosure under this subdivision, or (C) failing to  
28 discover any account owned by the person named in the request  
29 pursuant to a computerized search of the records of the financial  
30 institution.

31 (6) The local child support agency may request information  
32 pursuant to this subdivision only when the local child support  
33 agency has received at least one of the following types of  
34 physical evidence:

35 (A) Any of the following, dated within the last three years:

36 (i) Form 599.

37 (ii) Form 1099.

38 (iii) A bank statement.

39 (iv) A check.

40 (v) A bank passbook.

- 1 (vi) A deposit slip.
- 2 (vii) A copy of a federal or state income tax return.
- 3 (viii) A debit or credit advice.
- 4 (ix) Correspondence that identifies the child support obligor
- 5 by name, the bank, and the account number.
- 6 (x) Correspondence that identifies the child support obligor by
- 7 name, the bank, and the banking services related to the account
- 8 of the obligor.
- 9 (xi) An asset identification report from a federal agency.
- 10 (B) A sworn declaration of the custodial parent during the 12
- 11 months immediately preceding the request that the person named
- 12 in the request has had or may have had an account at an office or
- 13 branch of the financial institution to which the request is made.
- 14 (7) Information obtained by a local child support agency
- 15 pursuant to this subdivision shall be used only for purposes that
- 16 are directly connected with the administration of the duties of the
- 17 local child support agency pursuant to Section 17400 of the
- 18 Family Code.
- 19 (m) (1) As provided in paragraph (1) of subdivision (c) of
- 20 Section 666 of Title 42 of the United States Code, upon receipt of
- 21 an administrative subpoena on the current federally approved
- 22 interstate child support enforcement form, as approved by the
- 23 federal Office of Management and Budget, a financial institution
- 24 shall provide the information or documents requested by the
- 25 administrative subpoena.
- 26 (2) The administrative subpoena shall refer to the current
- 27 federal Office of Management and Budget control number and be
- 28 signed by a person who states that he or she is an authorized
- 29 agent of a state or county agency responsible for implementing
- 30 the child support enforcement program set forth in Part D
- 31 (commencing with Section 651) of Subchapter IV of Chapter 7
- 32 of Title 42 of the United States Code. A financial institution may
- 33 rely on the statements made in the subpoena and has no duty to
- 34 inquire into the truth of any statement in the subpoena.
- 35 (3) If the person who signs the administrative subpoena directs
- 36 a financial institution in writing not to disclose either the
- 37 subpoena or its response to any owner of an account covered by
- 38 the subpoena, the financial institution shall not disclose the
- 39 subpoena or its response to the owner.



1 (4) No financial institution, or any officer, employee, or agent  
2 thereof, shall be liable to any person for (A) disclosing  
3 information or providing documents in response to a subpoena  
4 pursuant to this subdivision, (B) failing to notify any owner of an  
5 account covered by the subpoena or complying with a request not  
6 to disclose to the owner, the subpoena or disclosure under this  
7 subdivision, or (C) failing to discover any account owned by the  
8 person named in the subpoena pursuant to a computerized search  
9 of the records of the financial institution.

10 (n) The dissemination of financial information and records  
11 pursuant to any of the following:

12 (1) Compliance by a financial institution with the requirements  
13 of Section 2892 of the Probate Code.

14 (2) Compliance by a financial institution with the requirements  
15 of Section 2893 of the Probate Code.

16 (3) An order by a judge upon a written ex parte application by  
17 a peace officer showing specific and articulable facts that there  
18 are reasonable grounds to believe that the records or information  
19 sought are relevant and material to an ongoing investigation of a  
20 felony violation of Section 186.10 or of any felony subject to the  
21 enhancement set forth in Section 186.11.

22 (A) The ex parte application shall specify with particularity  
23 the records to be produced, which shall be only those of the  
24 individual or individuals who are the subject of the criminal  
25 investigation.

26 (B) The ex parte application and any subsequent judicial order  
27 shall be open to the public as a judicial record unless ordered  
28 sealed by the court, for a period of 60 days. The sealing of these  
29 records may be extended for 60-day periods upon a showing to  
30 the court that it is necessary for the continuance of the  
31 investigation. Sixty-day extensions may continue for up to one  
32 year or until termination of the investigation of the individual or  
33 individuals, whichever is sooner.

34 (C) The records ordered to be produced shall be returned to  
35 the peace officer applicant or his or her designee within a  
36 reasonable time period after service of the order upon the  
37 financial institution.

38 (D) Nothing in this subdivision shall preclude the financial  
39 institution from notifying a customer of the receipt of the order  
40 for production of records unless a court orders the financial

1 institution to withhold notification to the customer upon a finding  
2 that the notice would impede the investigation.

3 (E) Where a court has made an order pursuant to this  
4 paragraph to withhold notification to the customer under this  
5 paragraph, the peace officer or law enforcement agency who  
6 obtained the financial information shall notify the customer by  
7 delivering a copy of the ex parte order to the customer within 10  
8 days of the termination of the investigation.

9 (4) No financial institution, or any officer, employee, or agent  
10 thereof, shall be liable to any person for any of the following:

11 (A) Disclosing information to a probate court pursuant to  
12 Sections 2892 and 2893.

13 (B) Disclosing information in response to a court order  
14 pursuant to paragraph (3).

15 (C) Complying with a court order under this subdivision not to  
16 disclose to the customer, the order, or the dissemination of  
17 information pursuant to the court order.

18 (o) Disclosure by a financial institution to a peace officer, as  
19 defined in Section 830.1 of the Penal Code, pursuant to the  
20 following:

21 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the  
22 Civil Code, provided that the financial institution has first  
23 complied with the requirements of paragraph (2) of subdivision  
24 (a) and subdivision (b) of Section 1748.95 of the Civil Code.

25 (2) Paragraph (1) of subdivision (a) of Section 4002 of the  
26 Financial Code, provided that the financial institution has first  
27 complied with the requirements of paragraph (2) of subdivision  
28 (a) and subdivision (b) of Section 4002 of the Financial Code.

29 (3) Paragraph (1) of subdivision (a) of Section 22470 of the  
30 Financial Code, provided that any financial institution that is a  
31 finance lender has first complied with the requirements of  
32 paragraph (2) of subdivision (a) and subdivision (b) of Section  
33 22470 of the Financial Code.

34 (p) When the governing board of the Public Employees'  
35 Retirement System or the State Teachers' Retirement System  
36 certifies in writing to a financial institution that a benefit  
37 recipient has died and that transfers to the benefit recipient's  
38 account at the financial institution from the retirement system  
39 occurred after the benefit recipient's date of death, the financial  
40 institution shall furnish the retirement system with the name and

1 address of any coowner, cosigner, or any other person who had  
2 access to the funds in the account following the date of the  
3 benefit recipient's death, or if the account has been closed, the  
4 name and address of the person who closed the account.

5 (q) When the retirement board of a retirement system  
6 established under the County Employees Retirement Law of  
7 1937 certifies in writing to a financial institution that a retired  
8 member or the beneficiary of a retired member has died and that  
9 transfers to the account of the retired member or beneficiary of a  
10 retired member at the financial institution from the retirement  
11 system occurred after the date of death of the retired member or  
12 beneficiary of a retired member, the financial institution shall  
13 furnish the retirement system with the name and address of any  
14 coowner, cosigner, or any other person who had access to the  
15 funds in the account following the date of death of the retired  
16 member or beneficiary of a retired member, or if the account has  
17 been closed, the name and address of the person who closed the  
18 account.